

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

ALEJANDRO GARCIA,

Petitioner,

v.

OSCAR AVILES,

Respondent.

:
:
Civ. No. 16-0840 (KM)

:
:
MEMORANDUM AND ORDER
:
:
:
:
:
:
:
:
:
:

Petitioner, Alejandro Garcia, is an immigration detainee currently lodged at the Hudson County Correctional Facility in Kearny, New Jersey. He is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Mr. Garcia challenges his current immigration detention in his habeas petition. On February 23, 2016, this matter was administratively terminated as Mr. Garcia had not paid the \$5.00 filing fee nor had he submitted an application to proceed *in forma pauperis*. Subsequently, Mr. Garcia paid the filing fee such that the Clerk will be ordered to reopen this case.

In accordance with Rule 4 of the Rules Governing Section 2254 Cases, applicable to § 2241 cases through Rule 1(b) of the Rules Governing Section 2254 Cases, this Court has screened the petition for dismissal and determined that dismissal without an answer and the record is not warranted. The respondent shall specifically address what impact, if any, *Zadvydas v. Davis*, 533 U.S. 678 (2001) has on Mr. Garcia's habeas petition in its answer in addition to any other arguments respondent may make.

Accordingly, IT IS this 9th day of March, 2016,

ORDERED that the Clerk shall reopen this case; and it is further

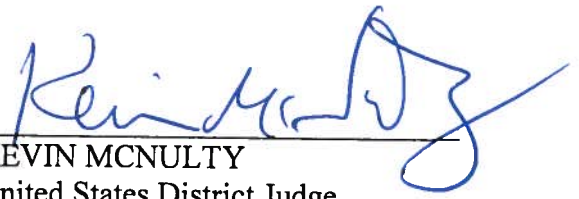
ORDERED that the Clerk shall forward a copy of the petition (Dkt. No. 1) and this Order to the Chief, Civil Division, United States Attorney's Office, at the following email address: USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within thirty (30) days of the date of the entry of this Order, respondent shall file and serve an answer which responds to the allegations and grounds in the petition and which includes all affirmative defenses respondent seeks to invoke; and it is further

ORDERED that respondent shall file and serve with the answer certified copies of all documents necessary to resolve petitioner's claim(s) and affirmative defenses; and it is further

ORDERED that within thirty (30) days of receipt of the answer, petitioner may file a reply to the answer; and it is further

ORDERED that within seven (7) days of petitioner's release, be it parole or otherwise, respondent shall electronically file a written notice of the same with the Clerk.


KEVIN MCNULTY
United States District Judge